

STATE OF MICHIGAN
COURT OF APPEALS

ARELIOUS RAY REED,

Plaintiff-Appellant,

v

OBSERVER & ECCENTRIC MIRROR
NEWSPAPERS,

Defendant-Appellee.

UNPUBLISHED

June 13, 2013

No. 310343

Wayne Circuit Court

LC No. 12-003783-CZ

Before: RIORDAN, P.J., and TALBOT and FORT HOOD, JJ.

PER CURIAM.

Arelious Ray Reed, acting *in propria persona*, appeals as of right the trial court's order granting the Observer & Eccentric Mirror Newspaper's (the Newspaper) motion for summary disposition.¹ We affirm.

Reed brought an *in propria persona* action for libel against the Newspaper in Wayne County on March 19, 2012. In response, the Newspaper moved the trial court for summary disposition² arguing that the statute of limitations barred Reed's claim. Reed argued that the statute of limitations was tolled because he originally filed the claim in federal court within the one-year statute of limitations. The trial court agreed with the Newspaper and dismissed Reed's claim.

Reed contends on appeal that the trial court erred in ruling that the applicable statute of limitations barred his libel claim against the Newspaper. We disagree. Specifically, Reed alleges that the statute of limitations was tolled between the time that he originally filed his action in federal court and the time that he filed his complaint in state court.³

¹ MCR 2.116(C)(7).

² *Id.*

³ Throughout this opinion, we reference the federal district court record. MRE 201(b) provides in relevant part that "[a] judicially noticed fact must be one not subject to reasonable dispute in that it is . . . capable of accurate and ready determination by resort to sources whose accuracy

We review a trial court's ruling on a motion for summary disposition brought on statute of limitations grounds de novo.⁴ "In reviewing a motion under MCR 2.116(C)(7), this Court 'consider[s] all documentary evidence submitted by the parties, accepting as true the contents of the complaint unless affidavits or other appropriate documents specifically contradict them.'"⁵ "Absent a disputed question of fact, the determination whether a cause of action is barred by a statute of limitation is a question of law that this Court reviews de novo."⁶

The statute of limitations for a libel action is one year from the date of publication of the libelous statement.⁷ Reed alleges that the libelous article was published on December 17, 2007. He filed his action in the United States District Court for the Eastern District of Michigan on November 18, 2008. On March 11, 2009, Reed's case was dismissed by the federal district court because it lacked federal subject matter jurisdiction. Although Reed is correct in his assertion that the statute of limitations was tolled during the time that his case was pending in federal court,⁸ he is incorrect that the statute of limitations continued to be tolled between the time that his action in federal district court was dismissed and the time that he filed his action in state court. Dismissal of the action by the federal court in March 2009 stopped the tolling of the statute of limitations.⁹ Reed did not file his action in Wayne County until over three years after it was dismissed by the federal court. Therefore, when Reed filed his action in Wayne County, the statute of limitations had expired.¹⁰ Accordingly, we find that the trial court properly granted summary disposition in favor of the Newspaper.¹¹

Affirmed.

/s/ Michael J. Riordan
/s/ Michael J. Talbot
/s/ Karen M. Fort Hood

cannot reasonably be questioned." Although these federal district court records were not part of the lower court record when the trial court granted the Newspaper's motion for summary disposition, we take judicial notice of these records in deciding this appeal. MRE 201(c) and (e).

⁴ *Vanslembrouck ex rel Vanslembrouck v Halperin*, 277 Mich App 558, 560; 747 NW2d 311 (2008).

⁵ *Id.* (citations omitted).

⁶ *Doe v Roman Catholic Archbishop of Archdiocese of Detroit*, 264 Mich App 632, 638; 692 NW2d 398 (2004).

⁷ MCL 600.5805(9); MCL 600.5827; *Wilson v Knight-Ridder Newspapers, Inc*, 190 Mich App 277, 279; 475 NW2d 388 (1991).

⁸ MCL 600.5856; *Terrace Land Dev Corp v Seeligson & Jordan*, 250 Mich App 452, 458-459; 647 NW2d 524 (2002).

⁹ *Id.*

¹⁰ MCL 600.5805(9).

¹¹ *Halperin*, 277 Mich App at 560.